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LOEC, INC.; LORILLARD, INC.; ITG BRANDS, LLC;  
REYNOLDS AMERICA, INC.; FONTEM US, INC.;  
and FONTEM HOLDINGS 4 B.V.

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**SOUTHERN DIVISION – SANTA ANA**

IN RE FONTEM US, INC.  
CONSUMER CLASS ACTION  
LITIGATION

Case No. 8:15-cv-01026-JVS-RAO

Assigned to Hon. James V. Selna

**REQUEST FOR JUDICIAL  
NOTICE IN SUPPORT OF  
DEFENDANTS' OPPOSITION TO  
PLAINTIFFS' MOTION FOR  
CLARIFICATION OR  
RECONSIDERATION, OR, IN THE  
ALTERNATIVE, ENTRY OF  
JUDGMENT PURSUANT TO FRCP  
54(B), OR CERTIFICATION FOR  
INTERLOCUTORY APPEAL**

Date: February 13, 2017  
Time: 1:30 p.m.  
Place: Courtroom 10C

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**TO THE PARTIES AND ALL ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that Defendants LOEC, Inc.; Lorillard, Inc.; ITG Brands, LLC; Reynolds America, Inc.; Fontem US, Inc.; and Fontem Holdings 4 B.V. (collectively, “Defendants”) hereby request that the Court take judicial notice of the following documents pursuant to Federal Rule of Evidence 201:

1. The Court of Appeals for the Ninth Circuit’s docket in *Brazil v. Dole Packaged Foods, LLC*, No. 14-17480 (9th Cir. 2016) (available through CM-ECF and PACER), a true and correct copy of which is attached hereto as **Exhibit A**. The docket of this appeal reflects that the Ninth Circuit considered the issues and entered an unpublished judgment on September 30, 2016.

2. The Court of Appeals for the Ninth Circuit’s docket in *Briseno v. ConAgra Foods, Inc.*, No. 15-55727 (9th Cir. 2016) (available through CM-ECF and PACER), a true and correct copy of which is attached hereto as **Exhibit B**. The docket of this appeal reflects that the Ninth Circuit heard oral argument on this matter on September 12, 2016, but has not yet rendered a decision.

3. The Court of Appeals for the Ninth Circuit’s docket in *Jones, et al v. ConAgra Foods, Inc.*, No. 14-16327 (9th Cir. 2016) (available through CM-ECF and PACER), a true and correct copy of which is attached hereto as **Exhibit C**. The docket of this appeal reflects that the Ninth Circuit has not heard oral argument on this matter, and the case has been stayed pending the United States Supreme Court’s decision in *Microsoft Corp. v. Baker*, 136 S. Ct. 890 (2016).

Federal Rule of Evidence 201(b)(2) provides that the Court may properly take judicial notice of facts that are not subject to reasonable dispute because they “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” None of these documents is subject to reasonable dispute, because they are all matters of public record. *See Headwaters Inc. v. United States Forest Serv.*, 399 F.3d 1047, 1050 (9th Cir. 2005) (“Materials from a proceeding in another tribunal are appropriate for judicial notice”); *Mir v. Little Co. of Mary Hosp.*, 844

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1 F.2d 646, 649 (9th Cir. 1988) (court may take judicial notice of court records); *see*  
2 *also Johnson v. Martel*, 2010 U.S. Dist. LEXIS 52978, at \*3 n.2 (C.D. Cal. Apr. 30,  
3 2010) (Selna, J.) (“Pursuant to Rule 201, the Court also takes judicial notice of the  
4 electronic dockets for the Ninth Circuit available through the PACER system”);  
5 *Vasquez v. Warden*, 2009 U.S. Dist. LEXIS 70770, at \*5 n.2 (C.D. Cal. July 30,  
6 2009) (Selna, J.) (same).

7 Because these documents are court documents from another tribunal, and thus  
8 matters of public record, none of them is subject to reasonable dispute. Therefore,  
9 Defendants respectfully request that the Court take judicial notice of each of the  
10 documents.

11  
12 Dated: December 19, 2016

**DYKEMA GOSSETT LLP**

13  
14 By: /s/ Allan Gabriel

15 Allan Gabriel  
16 J. Kevin Snyder  
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19 LOEC, INC.; LORILLARD, INC.;  
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22 FONTEM US, INC.;  
23 and FONTEM HOLDINGS 4 B.V.  
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